

By: Ellis

S.B. No. 1672

A BILL TO BE ENTITLED

AN ACT

relating to the approval of voting systems and equipment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 122.035, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (e) to read as follows:

(a) On submission of an application for approval of a voting system or voting system equipment, the secretary of state shall appoint five [~~four~~] persons as examiners, one of whom must be a full-time employee of the secretary. The attorney general shall:

(1) appoint three [~~two~~] persons as examiners: [7]

(A) one of whom must be a full-time employee of the general; and

(B) one of whom must be a member of the public; and

(2) in making appointments under Subdivision (1), include one person who is an attorney with five years' or more experience in election law and procedure.

(b) The [~~Two of the~~] secretary of state's appointees must include:

(1) one person with at least 10 years' experience as an information security professional;

(2) one person with at least 10 years' experience in the design and usability testing of usable, accessible human

1 interfaces for computer systems;

2 (3) one person with experience as an election judge, a  
3 county election administrator, or a county clerk from a county  
4 using electronic voting systems; and

5 (4) one person who is a member of the public with  
6 experience in non-partisan election monitoring [~~have demonstrated~~  
7 ~~ability and experience in mechanics or electronics appropriate to~~  
8 ~~the system or equipment to be examined, and two of the secretary's~~  
9 ~~appointees must have demonstrated knowledge of and experience in~~  
10 ~~election law and procedure].~~

11 (e) Before being appointed as an examiner, a person shall  
12 submit to the secretary of state a summary containing descriptions  
13 of the person's work history and education, any publications by or  
14 certification or training received by the person, and any relevant  
15 experience of the person with election equipment or election law.

16 SECTION 2. Section 122.036(a), Election Code, is amended to  
17 read as follows:

18 (a) The examiners shall examine the voting system or voting  
19 system equipment for which an application has been submitted at the  
20 time and in the manner directed by the secretary of state except  
21 that:

22 (1) the examination must occur at an open meeting  
23 subject to Chapter 551, Government Code; and

24 (2) an audio-visual recording of the examination must  
25 be created and made available to the public on request.

26 SECTION 3. Section 122.038, Election Code, is amended by  
27 amending Subsection (c) and adding Subsection (d) to read as

1 follows:

2 (c) If the system or equipment satisfies the applicable  
3 requirements for approval, the secretary by written order shall  
4 grant preliminary approval of ~~approve~~ the system or equipment of  
5 that design for use in elections. Otherwise, the secretary shall  
6 deny the application.

7 (d) The secretary of state may finalize approval of a system  
8 or equipment only if the secretary follows the process for final  
9 adoption of a rule contained in Sections 2001.023, 2001.029,  
10 2001.030, 2001.031, 2001.033, and 2001.034, Government Code.  
11 Section 2001.035, Government Code, applies to a final approval with  
12 respect to compliance with the sections of Subchapter B, Chapter  
13 2001, Government Code, listed in this subsection.

14 SECTION 4. Section 122.067, Election Code, is amended to  
15 read as follows:

16 Sec. 122.067. APPOINTMENT OF EXAMINERS. (a) If the  
17 secretary of state requires an independent examination of the  
18 modified system or equipment, the secretary shall appoint five  
19 ~~four~~ persons as examiners, one of whom must be a full-time  
20 employee of the secretary. The attorney general shall appoint  
21 three ~~two~~ persons as examiners, one of whom must be a full-time  
22 employee of the general.

23 (b) To be eligible for appointment as an examiner under this  
24 section, a person must be eligible for appointment as an examiner  
25 for an application for initial approval of a system or equipment.  
26 The examiners appointed by the secretary of state must meet the  
27 requirements of Section 122.035(b) and the examiners appointed by

1 the attorney general must meet the requirements of Section  
2 122.035(a). Only one employee of the secretary of state may be  
3 appointed.

4 (c) Before being appointed as an examiner, a person shall  
5 submit to the secretary of state a summary containing descriptions  
6 of the person's work history and education, any publications by or  
7 certification or training received by the person, and any relevant  
8 experience of the person with election equipment or election law.

9 ~~[Two of the secretary of state's appointees must have demonstrated~~  
10 ~~ability and experience in mechanics or electronics appropriate to~~  
11 ~~the system or equipment to be examined.]~~

12 SECTION 5. Section 122.070, Election Code, is amended by  
13 amending Subsection (c) and adding Subsection (d) to read as  
14 follows:

15 (c) If the modified design satisfies the applicable  
16 requirements for approval, the secretary by written order shall  
17 grant preliminary approval of ~~[approve]~~ the system or equipment of  
18 that design for use in elections. Otherwise, the secretary shall  
19 deny the application.

20 (d) The secretary of state may finalize approval of a system  
21 or equipment only if the secretary follows the process for final  
22 adoption of a rule contained in Sections 2001.023, 2001.029,  
23 2001.030, 2001.031, 2001.033, and 2001.034, Government Code.  
24 Section 2001.035, Government Code, applies to a final approval with  
25 respect to compliance with the sections of Subchapter B, Chapter  
26 2001, Government Code, listed in this subsection.

27 SECTION 6. Section 122.092, Election Code, is amended by

1 amending Subsections (a) and (b) and adding Subsection (e) to read  
2 as follows:

3 (a) The secretary of state shall appoint five [~~four~~] persons  
4 as examiners, one of whom must be a full-time employee of the  
5 secretary, to assist in a reexamination of an approved voting  
6 system or voting system equipment. The attorney general shall  
7 appoint three [~~two~~] persons as examiners, one of whom must be a  
8 full-time employee of the general.

9 (b) To be eligible for appointment as an examiner under this  
10 section, a person must be eligible for appointment as an examiner  
11 for an application for initial approval of a system or equipment.  
12 The examiners appointed by the secretary of state must meet the  
13 requirements of Section 122.035(b) and the examiners appointed by  
14 the attorney general must meet the requirements of Section  
15 122.035(a). [~~Two of the secretary of state's appointees must have~~  
16 ~~demonstrated knowledge of and experience in the operation of the~~  
17 ~~system or equipment.~~]

18 (e) Before being appointed as an examiner, a person shall  
19 submit to the secretary of state a summary containing descriptions  
20 of the person's work history and education, any publications by or  
21 certification or training received by the person, and any relevant  
22 experience of the person with election equipment or election law.

23 SECTION 7. Section 122.093(a), Election Code, is amended to  
24 read as follows:

25 (a) The examiners shall examine the system or equipment to  
26 be reexamined at the time and in the manner directed by the  
27 secretary of state except that:

1           (1) the examination must occur at an open meeting  
2 subject to Chapter 551, Government Code; and

3           (2) an audio-visual recording of the examination must  
4 be created and made available to the public on request.

5           SECTION 8. This Act takes effect January 1, 2006.